

156 FERC ¶ 61,123
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Alliance Pipeline L.P.

Docket Nos. RP16-581-002
RP15-1022-005
(Consolidated)

ORDER DENYING REHEARING

(Issued August 23, 2016)

I. Background

1. On June 30, 2015, the Commission issued an order in Docket No. RP15-1022-000 that addressed extensive tariff revisions filed by Alliance Pipeline L.P. (Alliance) in light of various changes on the pipeline's system.¹ The June 2015 Order accepted and suspended Alliance's tariff records, subject to refund, and established a hearing to examine whether the tariff changes were "unjust, unreasonable and unduly discriminatory or otherwise unlawful."

2. On July 30, 2015, Badlands NGLs, LLC's (Badlands) sought clarification that the proposed tariff changes involving natural gas processing – which Badlands claimed led to anti-competitive results by requiring shippers to exclusively utilize Aux Sable Liquid Products LP, an affiliate of Alliance – are subject to the hearing established by the June 2015 Order.

3. In a November 19, 2015 order issued in Docket No. RP15-1022-000, the Commission clarified that the Commission "intended to set all issues raised by [Alliance's] filing for hearing" and that "the mention of certain issues" in the June 2015 Order "for examination at hearing was not intended to foreclose examination of other aspects of the filing at hearing."²

¹ *Alliance Pipeline L.P.*, 151 FERC ¶ 61,271 (2015) (June 2015 Order).

² *Alliance Pipeline L.P.*, 153 FERC ¶ 61,195, at P 66 (2015) (November 2015 Order).

4. On February 2, 2016, Alliance filed tariff records in Docket No. RP16-581-000 for the stated purpose of accommodating the future potential for additional processing plants connected to the Alliance system by replacing references to the Aux Sable Plant with the more generic term “Processing Plant.”

5. On February 16, 2016, Badlands filed a protest and motion to consolidate Docket Nos. RP16-581-000 and RP15-1022-000. Badlands protested Alliance’s proposed changes, arguing that they were insufficient to cure anti-competitive issues and do not fully respond to the concerns Badlands raised in Docket No. RP15-1022-000. Badlands also argued that proceedings related to Alliance’s filing in Docket No. RP16-581-000 should be consolidated with those in Docket No. RP15-1022-000. Alliance filed an answer to Badlands’ protest and motion.

6. In a March 3, 2016 order, the Commission found that the issues related to Alliance’s proposed gas processing provisions are present in Docket No. RP16-581-000 and in the ongoing hearing in Docket No. RP15-1022-000. Accordingly, the Commission accepted and suspended Alliance’s February 2, 2016 tariff records subject to conditions and consolidated RP16-581-000 with RP15-1022-000.³ The March 2016 Order did not address Alliance’s answer.

7. On April 4, 2016, Alliance requested rehearing of the Commission’s March 2016 Order. Alliance contends the Commission erred by (1) failing to address Alliance’s February 29, 2016 answer because the answer was in response to a motion to consolidate, (2) subjecting the tariff records to the outcome of the proceedings in RP16-1022-000 and (3) failing to reject Badlands’ attempt to expand the issues set for hearing.

II. Commission Determination

8. We reject Alliance’s claim that the Commission erred by failing to address its answer. Answers to protests are generally barred by the Commission procedural rules.⁴ Alliance’s argument that its answer was in response to Badland’s motion to consolidate is without merit because Alliance did not object to consolidation of the dockets but rather responded to the content of Badlands’ protest. Regardless, Alliance has been afforded the opportunity to pursue its arguments in this rehearing of the March 2016 Order.⁵

³ *Alliance Pipeline L.P.*, 154 FERC ¶ 61,160 (2015) (March 2016 Order).

⁴ 18 C.F.R. § 385.213(a)(2) (2013) (“an answer may not be made to a protest . . . unless otherwise ordered”).

⁵ *ANR Pipeline Co.*, 147 FERC ¶ 61,124, at P 22 (May 14, 2014).

9. Alliance's contention that the March 2016 Order erred by subjecting the tariff records to the outcome of the proceedings in RP15-1022-000 and expanding the issues set for hearing in Docket No. RP15-1022-000 is also without merit. Relying upon an unduly narrow reading of the November 2015 Order, Alliance asserts that the Commission excluded Badland's undue discrimination and anti-competitive behavior contentions from the scope of the hearing.⁶ In fact, the November 2015 Order included a broad, non-exhaustive list of items set for hearing and specifically noted that many issues might require extrinsic evidence to resolve.⁷ At no point did the Commission rule on the merits of the alleged anti-competitive behavior. In fact, the Commission expressly stated that "all issues raised by [Alliance's May 2015] filing" had been set for hearing.⁸ Further, there remain issues of material fact regarding the allegations of anti-competitive conduct. Thus, the evidentiary hearing being held in RP15-1022-000 is the appropriate proceeding for such a determination to be made with respect to issues raised by Alliance's May 2015 tariff filing as well as its February 2016 tariff filing.

The Commission orders:

Alliance's request for rehearing is hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

⁶ Alliance Request for Rehearing at 5-6.

⁷ November 2015 Order, 153 FERC ¶ 61,195 at P 66.

⁸ *Id.*